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McKINNEY'S
Consolidated Laws of New York
ANNOTATED

BOOK 53

STATE BOARDS AND COMMISSIONS LAW

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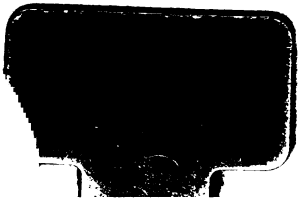

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Consolidated Laws of New York
Annotated

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THE CONSOLIDATED LAWS OF NEW YORK
ANNOTATED

The books of this edition are arranged and numbered as follows:

1. Report of Consolidators and Treatise on Statutes and Statutory Construction
2. Constitution of New York Annotated, Constitution of the United States, Declaration of Independence and Magna Charta
3. Agricultural
4. Banking
5. Benevolent Orders
6. Business Corporations
7. Canal
7a. City Local Option
8. Civil Rights
9. Civil Service
10. Conservation
11. County
12. Debtor and Creditor
13. Decedent Estate
14. Domestic Relations
15. Drainage
16. Education
17. Election
18. Executive
18a. The Farms and Markets
19. General Business
20. General City
21. General Construction
22. General Corporation
22a. General Highway Traffic
23. General Municipal
24. Highway
25. Indian
26. Insanity
27. Insurance
28. Joint-Stock Association
29. Judiciary
30. Labor
31. Legislative
32. Lien
33. Liquor Tax
34. Membership Corporations
35. Military
36. Navigation
37. Negotiable Instruments
38. Partnership
39. Penal
40. Personal Property
41. Poor
42. Prison
43. Public Buildings
44. Public Health
45. Public Lands
46. Public Officers
47. Public Service Commissions
48. Railroad
49. Real Property
50. Religious Corporations
51. Salt Springs
52. Second Class Cities
53. State Boards and Commissions
54. State Charities
55. State Finance
56. State
57. State Printing
58. Stock Corporation
59. Tax
60. Tenement House
61. Town
62. Transportation Corporations
63. Village
64. Workmen's Compensation
65. Unconsolidated Laws
66. Complete Table of Laws Repealed
67. General Index

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THE CONSOLIDATED LAWS OF NEW YORK, ANNOTATED

AS AMENDED TO THE CLOSE OF THE REGULAR AND EXTRAORDINARY SESSIONS OF THE LEGISLATURE OF 1917

Compiled under the Editorial Supervision of
WILLIAM M. McKINNEY

BOOK 53
State Boards and Commissions Law

EDWARD THOMPSON COMPANY
Northport, New York
1918

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STATE OF NEW YORK
OFFICE OF THE SECRETARY OF STATE } ss :

In pursuance of the authority vested in me, by section 932 of the Code of Civil Procedure, I, Francis M. Hugo, Secretary of State, hereby certify that the copies of the laws contained in this volume are correct transcripts of the text of the original laws, and in accordance with such section are entitled to be read in evidence.

Given under my hand and the seal of office of the Secretary of State, at the Capitol in the City of Albany, this 30th day of October, 1917.

[L. S.]

FRANCIS M. HUGO,
Secretary of State.

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The annotations in this book close with the cases reported in the following volumes:

220 New York
176 Appellate Division
99 Miscellaneous
164 New York Supplement

The Supplements will cover decisions from these points.

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STATE BOARDS AND COMMISSIONS LAW

LAWS 1909, CHAP. 56

AN ACT in relation to state boards and commissions, constituting chapter fifty-four of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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STATE BOARDS AND COMMISSIONS LAW

CHAPTER 54 OF THE CONSOLIDATED LAWS

Article *[1. Short title (§ 1).]
[2. State water supply commission (§§ 5–26).]
3. State probation commission (§§ 30, 31).
4. Commissioners for the promotion of uniformity of legislation in the United States (§§ 40–43).
5. Commissioners of water power on Black river (§ 50).
6. The interstate bridge commission (§§ 55–63).
7. Laws repealed; when to take effect (§§ 70, 71).

ARTICLE 1

Short Title

Section 1. Short title.

§ 1. Short title. This chapter shall be known as the "State Boards and Commissions Law." [Repealed.]

This section was repealed by the Conservation Law (L. 1911, ch. 647) § 550. The inclusion of this section in that repeal was, probably, an error. Article 2 of the State Boards and Commissions Law relating to "State water supply commission" and consisting of sections 5–26, was superseded by provisions contained in the Conservation Law, and it is probable that the intention of the legislature was to include in the repeal only sections 5–26 of the State Boards and Commissions Law.

The following sections of the repealed article together with any annotations thereon are now covered by the Conservation Law as follows: Section 5, by section 2; sections 6 and 7 by sections 521 and 522; section 8 by section 24; sections 10–19 by sections 407–417; section 20 by section 415; section 21 by section 418; sections 22a and 22b sections 419 and 420; sections 25 and 26 by sections 421 and 422.

The report of the Board of Statutory Consolidation (1907), page 5139, has the following note relating to the scope of the law: "The 'State Boards and Commissions Law' embraces provisions relating to state boards and commissions which cannot be assigned appropriately to any other consolidated law and which it has deemed best not to arrange into a separate law."

When chapter takes effect: see infra, § 71.

Commission form of government: see notes, Ann. Cas. 1912C 999; Ann. Cas. 1915A 1217; Ann. Cas. 1917C 1103; 35 L. R. A. (N. S.) 802; 41 L. R. A. (N. S.) 111; 51 L. R. A. (N. S.) 632; L. R. A. 1917A 1260.

ARTICLE 2

State Water Supply Commission. [Repealed.]

See note to article 1 supra.

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* The Conservation Law (L. 1911, ch. 647) by section 550 specifically repealed L. 1909, ch. 56, §§ 1–26, which was the session law that enacted the State Boards and Commissions Law.

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ARTICLE 3

State Probation Commission

Section 30. Organization, powers and duties of state probation commission.
31. Employees of state probation commission.

§ 30. Organization, powers and duties of state probation commission. The state probation commission is continued. Such commission shall exercise general supervision over the work of probation officers throughout the state, and shall consist of seven members, who shall serve without compensation as members of such commission. The state board of charities, and the state commission of prisons, shall, respectively, once each year, designate a member of their respective bodies, to act as members of the state probation commission; and the commissioner of education shall be, ex officio, a member thereof. As the terms of the appointive members, first appointed by the governor, shall expire, their successors shall be appointed by the governor within thirty days thereafter for a term of four years each. All vacancies occurring among appointive members, from whatsoever cause, shall be filled as soon as practicable thereafter by the governor for the unexpired term. Any appointive member may be removed by the governor for cause and after an opportunity to be heard before the governor. The state commission shall meet at stated times to be fixed by such commission, not less often than once every two months. It shall collect and publish statistical and other information, [1]and make recommendations, as to the operations of the probation system. It shall keep itself informed as to the work of all probation officers, and shall from time to time inquire into their conduct and efficiency. [2]It may require reports from probation officers on blanks furnished by the commission. [2]It shall each year inform all magistrates and probation officers of any legislation directly affecting probation and shall each year publish a list of all probation officers in the state. It shall endeavor, by such means as may seem to it most suitable, to secure the effective application of the probation system and enforcement of the pro-

The report of the Boasd of Statutory Consolidation (1907, page 5166, has the following note relating to this article: "The state probation commission was created by L. 1907, Ch. 430, with general supervision over the work of probation officers throughout the state. The Code of Criminal Procedure, section 11a, provides for the appointment of probation officers by courts having jurisdiction of criminal actions and defines the powers and duties of such officers. Sections 483 and 487 of the Code of Criminal Procedure provide when the court may place a convicted defendant on probation. The Criminal Code, being a procedure act, would be an improper classification for the act creating the State Probation Commission. The provisions of law relating to the State Probation Commission are therefore consolidated in this chapter as the only other classification."

[1] Words "and make recommendations" new.

[2] Following sentence new.

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bation law in all parts of the state. It shall make an annual report to the legislature showing its proceedings under this article and the results of the probation system as administered in the various localities in the state, with any suggestions or recommendations it may consider wise for the more effectual accomplishment of the general purposes of this article. Said commission in the discharge of its duties shall have access to all offices and records of probation officers, but this section shall not be construed as giving said commission access to the records of any society for the prevention of cruelty to children or humane society. The state commission may direct an investigation by a committee of one or more of its members of the work of any probation officer and for this purpose, the member or members designated to make such investigation are hereby empowered to issue compulsory process for the attendance of witnesses and the production of papers, to administer oaths, and to examine persons under oath, and to exercise the same powers in respect to such proceeding as belong to referees appointed by the supreme court.

This section was derived from L. 1907, ch. 430, § 1. It was amended by L. 1910, ch. 613, § 1. The amendments are shown in the footnotes.

Appointment by governor: see PUBLIC OFFICERS LAW, § 7.

Vacancies and resignations: see PUBLIC OFFICERS LAW, §§ 30, 31.

Removals by governor: see PUBLIC OFFICERS LAW, § 33.

§ 31. Employees of state probation commission. The state probation commission shall employ a chief executive officer, who shall be its secretary, and who shall receive a salary at the rate of not less than three thousand five hundred dollars a year; a stenographer and such other employees, within the limits of the sums appropriated for its use by the legislature, as may be necessary in the conduct of the business of such commission. The duties of such executive officer and other employees shall be designated by said commission. The legislature shall provide for the necessary and reasonable traveling expenses of the members of said commission and of the employees thereof. Such salaries and expenses shall be paid by the treasurer on the warrant of the comptroller, after approval by the commission.

This section was derived from L. 1907, ch. 430, § 2.

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ARTICLE 4

Commissioners for the Promotion of Uniformity of Legislation in the United States

Section 40. Commissioners for promotion of uniformity of legislation.
41. Term of office and expenses of commissioners.
42. Employees and annual expense allowance.
43. Annual report of commissioners.

§ 40. Commissioners for promotion of uniformity of legislation. The board of commissioners by the name and style of "commissioners for the promotion of uniformity of legislation in the United States" is continued. It shall be the duty of said board to examine the subjects of marriage and divorce, insolvency, the form of notarial certificates and other subjects; to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially to consider whether it would be wise and practicable for the state of New York to invite the other states of the union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states, and to devise and recommend such other course of action as shall best accomplish the purpose of this article.

This section was derived from L. 1890, ch. 205, § 1.

§ 41. Term of office and expenses of commissioners. No member of said board shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case of a vacancy on said board, such vacancy shall be filled by the governor.

This section was derived from L. 1890, ch. 205, § 2, as amended by L. 1892, ch. 538, § 1. It was amended by L. 1909, ch. 240, § 71, by which the first sentence of the previous section was eliminated. This sentence read: "Said commissioners shall hold office for a term not exceeding four years."

Vacancies and resignations: see Public Officers Law, §§ 30, 31.

§ 42. Employees and annual expense allowance. Said board may employ such persons and incur such expenses as may be necessary in the performance of its duties; but the total annual expense of said board shall not exceed the sum of five thousand dollars.

This section was derived from L. 1890, ch. 205, § 3.

§ 43. Annual report of commissioners. Said board shall report to the legislature from time to time as said board may deem proper, an account of its transactions and its advice and recommendations, as required by section forty of this article.

This section was derived from L. 1890, ch. 205, § 5, as amended by L. 1892, ch. 538, § 1.

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ARTICLE 5

Commissioners of Water Power on Black River

Section 50. Commissioners of water power on Black river.

§ 50. Commissioners of water power on Black river. The governor is authorized to appoint from time to time, and at his pleasure remove, two citizens of Jefferson county and one from Lewis county, interested in the use and owners of water power on the Black river, Beaver river or Moose river, in such counties, to be commissioners of water power on Black river. The superintendent of public works shall also be a commissioner by virtue of his office. Such commissioners shall not receive compensation for their services. Such commissioners are authorized to appoint one gatekeeper for the state dam at Stillwater, on the Beaver river, and one gatekeeper for the dams constructed by the state on the Fulton chain of lakes and Moose river. Such commissioners are authorized to make rules and regulations for the management of the gates in said dams subject to the approval of the superintendent of public works. It shall be the duty of each gatekeeper to observe and obey all rules and regulations so made and approved. The gatekeepers shall receive such compensation as may be fixed by the commissioners, but not more than eleven hundred dollars shall be paid in all as the compensation of both said keepers in any one year, such compensation to be paid in monthly instalments by the treasurer upon the warrant of the comptroller issued upon the order of the superintendent of public works. Such commissioners shall have all the rights and authority of such gatekeepers and are authorized to regulate the discharge of water through such gates at such times and in such quantities as they may deem proper, but not in such manner as to injuriously interfere with canal navigation or the navigation of that portion of the Black river used for canal purposes.

This section was derived from L. 1896, ch. 795, § 1, as amended by L. 1905, ch. 382, § 1.

Black river canal: see Canal Law, § 2.

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ARTICLE 6*

The Interstate Bridge Commission

Section 55. Interstate bridge commission created.
56. Acquisition of bridges by agreement.
57. Bridges, how acquired when not purchased.
58. Proceedings for acquisition of bridges by condemnation.
59. Idem; report of commissioners; confirmation; appeals.
60. Costs.
61. Management of bridges; tolls abolished, et cetera.
62. Expense of acquisition; one-half to be borne by this state.
63. Expense of maintenance a joint charge.

§ 55. Interstate bridge commission created. The state engineer and surveyor, the superintendent of public works and the state highway commissioner shall constitute the interstate bridge commission hereby created. Such commission shall, together with a similar board or commission from the state of Pennsylvania, constitute a joint commission to acquire the rights, franchises and property of the several bridge corporations, municipal corporations, companies, partnerships or individuals owning or operating toll bridges and including the bridge at Pond Eddy in the town of Lumberland, Sullivan county, owned by said town across the Delaware river between the state of New York and the state of Pennsylvania, except such as are owned by steam or electric railroads or railways and used exclusively for railroad or railway purposes. Such acquisition shall be either by purchase or to be had and effected by this state and the state of Pennsylvania under and by virtue of their respective rights of eminent domain, this state to pay one-half of the cost of the said bridges and one-half of the cost of acquiring them, and the other half of the cost of the said bridges and one-half of the cost of acquiring them to be paid by the state of Pennsylvania, or in lieu thereof, in proportion between the state of Pennsylvania and the counties and municipalities thereof as the latter state may by appropriate legislation determine.

New. Added by L. 1916, ch. 506, § 1.

§ 56. Acquisition of bridges by agreement. Such joint commission shall, in its discretion, determine the order in which the several bridge properties, rights and franchises shall be acquired

*Added by L. 1916, ch. 506, § 1; former article 6, "Law repealed; when to take effect," renumbered article 7.

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by purchase or condemnation, subject, however, to the amount of the appropriation by the respective states available for such purposes, preference being given to those who, in order of time, shall voluntarily agree with the joint commission upon the purchase price after the said joint commission shall have acquired the properties, rights and franchises of and in all the bridge corporations, municipal corporations, companies, partnerships or individuals as have so agreed with them upon the purchase price thereof and payment has been made for the same in the manner hereinafter set forth, the said joint commission shall cause personal notice in writing to be served upon the president, secretary or treasurer of each of the bridge corporations, members of the companies or partnerships, individuals and chief executive officer of each of the municipal corporations, which have theretofore failed to agree to sell their rights, properties and franchises or refused to sell the same at a price offered by the said joint commission, setting forth their intention to begin condemnation proceedings under the power of eminent domain, as set forth in this article.

New. Added by L. 1916, ch. 506, § 1.
Bridge corporations generally: see TRANSPORTATION CORPORATIONS LAW, § 120 et seq.

§ 57. Bridges, how acquired when not purchased. It shall be the duty of the joint commission to determine in which state the condemnation proceedings shall be instituted and proceeded with, and in case the said proceedings shall be instituted in this state they shall be proceeded with in accordance with sections fifty-eight and fifty-nine of this article.

New. Added by L. 1916, ch. 506, § 1.

§ 58. Proceedings for acquisition of bridges by condemnation. In case the purchase price has not been agreed upon between the joint commission and any of such bridge corporations, municipal corporations, companies, partnerships or individuals, the supreme court in the judicial district in which the bridges or any one of them so about to be taken shall be situated, without any bond being required to be filed, on application thereto by the attorney-general or of any bridge corporation, municipal corporation, company, partnership or persons interested, shall appoint three discreet and disinterested freeholders, none of whom shall be a resident of the county in which the bridge is situated, as commissioners of appraisal and appoint a time not less than twenty nor more than thirty days thereafter when the said commissioners shall meet upon the property and view the same and the premises affected thereby. The said commissioners shall give at least ten days' personal notice of the time and place of the first meeting to the attorney-general and to the president, secretary or treasurer

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of the bridge corporation, members of the company or partnership affected, individual owning such bridge, or executive officer of such municipal corporation, if any of the aforesaid officers or persons so to be notified reside in the county in which said bridge is located, otherwise by advertisement for three consecutive weeks in two newspapers published in the said county and by hand bills posted upon the premises or by such other notice as the court shall direct. The said commissioners having been duly sworn or affirmed faithfully, justly and impartially to decide and true report make concerning the value of the property and franchises so taken, which shall be submitted to them, and in relation to which they are authorized to inquire under the provisions of this article, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses and shall estimate the damage for property taken, injured or destroyed, with all the rights, property and franchises appertaining to the same, and to whom damages are payable. They shall give at least ten days' notice thereof in the manner herein provided to the attorney-general and to the president, secretary or treasurer of the bridge corporation, members of company or partnership affected, individual owning such bridge, or executive officer of such municipal corporation, of the time and place when said commissioners will meet and exhibit their report and hear all exceptions thereto. After making whatever changes are deemed necessary, the said commissioners shall make report to the court, showing the damages, and file therewith a plan showing the location of said bridge or bridges so taken and the name of the corporation, company, partnership or person to whom such damages are payable.

New. Added by L. 1916, ch. 506, § 1.
Condemnation proceedings generally: see Code Civ. Pro., § 3357 et seq.

§ 59. Idem; report of commissioners; confirmation; appeals. Upon the report of said commissioners or any two of them being filed in said court, either the state or the corporation, company, partnership or persons owning said bridge or bridges, or any party interested, may, within thirty days thereafter, file exceptions to the same and the court shall have power to confirm said report or to modify, change or otherwise correct the same or refer the same back to the same or new commissioners with like powers as to their report; or, within thirty days from the filing of any report or the final action of the court upon the exceptions, any corporation, company or partnership whose property is taken, or the state or any person interested, may appeal and demand a trial by jury, and any corporation, company, partnership, person or party interested therein, or the state, may, within thirty days after final decree, take an appeal to appellate division of the supreme court. If no exceptions are filed or demands made for trial by jury within the said period of thirty days after the filing

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of said report, the same shall become absolute. The said supreme court, at special terms, shall have power to order what notices shall be given in connection with any part of said proceedings and may make all such orders as it may deem requisite.

New. Added by L. 1916, ch. 506, § 1.

§ 60. Costs. The costs of the commissioners and all court costs, including advertisements, incurred in the proceedings aforesaid, shall be defrayed by the state.

New. Added by L. 1916, ch. 506, § 1.
Costs and fees generally: see Code Civ. Pro., § 3228 et seq.

§ 61. Management of bridges; tolls abolished; et cetera. Upon and immediately after the purchase or final proceedings in condemnation, as the case may be, the said bridge or bridges shall become the sole property of the several states, in the proportion aforesaid, and the toll charges thereof shall cease, and said bridge or bridges shall be free to the traveling public under such rules and regulations as may be prescribed by the said joint commission. The damages shall be appraised as of the date upon which the collection of tolls shall cease, with interest thereon at the rate of five per centum during the time an appeal from the appraisal thereof is pending and until the same or the purchase price thereof has been paid, provided that any steam or passenger railroad or railway now having the use and occupation of any such toll bridge under a lease or agreement with any corporation, company, partnership or person owning such bridge shall pay to this state and to the state of Pennsylvania, in equal proportion, the same rental, interest and charges, and in the same manner and proportions as they now pay the said bridge corporation or corporations, companies, partnerships or owners as aforesaid. Provided, further, that any steam or electric railroad or railway corporation holding in whole or in part, in conjunction with a bridge corporation, company, partnership or individual, any bridge over the said river, upon which tolls are now collected or charged, shall be entitled to compensation to be agreed upon or ascertained as damages in the manner aforesaid in proportion as their interests may appear to and in the value of the bridge or bridges as a toll bridge or bridges only, and exclusive of its value as a railroad or railway bridge, and said bridge or bridges shall remain the property of the railroad or railway corporations, but toll charges thereon shall cease as heretofore provided in this section.

New. Added by L. 1916, ch. 506, § 1.
Bridge corporations generally: see TRANSPORTATION CORPORATIONS LAW, § 120 et seq.

§ 62. Expense of acquisition; one-half to be borne by this state. The one-half costs of the purchase price or of the damages under condemnation proceedings of all bridge properties, rights or

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franchises, or interests therein, acquired by the states of New York and Pennsylvania, in the manner above set forth, shall be paid by the state treasurer of the state of New York, upon the warrant of the comptroller, for its proportionate share of the amount due from this state to the corporation or corporations, company or companies, partnership or partnerships, or proper person or persons, as their interests may appear, upon vouchers audited by the interstate bridge commission of this state.

New. Added by L. 1916, ch. 506, § 1.

§ 63. Expense of maintenance a joint charge. Upon the acquisition as aforesaid by this state jointly with the state of Pennsylvania of the bridge properties, rights and franchises, as hereinbefore provided, such bridge or bridges, except in the case of railroad or railway bridges as hereinbefore provided, shall be and remain in the charge and custody of the said joint commission, and such bridges and the immediate approaches thereto shall be maintained jointly by this state and the state of Pennsylvania in equal proportions, and shall be kept in constant repair and rebuilt when destroyed, and the expense thereof and therefor shall be paid as are other expenses incident to the maintenance of property in the charge and custody of the said state; provided that appropriate concurrent legislation for the same purpose be enacted by the state of Pennsylvania.

New. Added by L. 1916, ch. 506, § 1.

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ARTICLE 7*

Laws Repealed; When to Take Effect

Section 70. Laws repealed.
71. When to take effect.

§ 70. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

This section was formerly section 55. It was renumbered section 70 by L. 1916, ch. 506, § 1.

§ †71. When to take effect. This chapter shall take effect immediately.

Schedule of Laws Repealed

Laws of	Chapter	Section
1890.....	205.....	All
1892.....	538.....	All
‡1894.....	349.....	All
1896.....	795.....	All
1904.....	734.....	All
1905.....	382.....	All
1905.....	723.....	All
1906.....	415.....	All
1906.....	418.....	All
1907.....	354.....	All
1907.....	430.....	All
1908.....	180.....	All

* Formerly article 6. Renumbered article 7 by L. 1916, ch. 506, § 1, which also renumbered former sections 55 and 56 respectively sections 70 and 71.

† This section was formerly section 56. It was renumbered section 71 by L. 1916, ch. 506, § 1.

‡ Inserted by L. 1909, ch. 240, § 100.

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INDEX TO STATE BOARD AND COMMISSIONS LAW

[*References are to sections*]

Bridges, see Interstate bridge commission
Eminent domain, interstate bridges, §§ 57–62
Interstate bridge commission —
  acquisition of bridges by agreement, § 56
  condemnation proceedings for acquisition of bridges, § 57
  creation of commission, § 55
  expense of acquisition of bridges, § 62
  expense of maintenance as joint charge, § 63
  proceedings for acquisition of bridges by condemnation, §§ 58–59
Laws repealed, § 70
Legislation, see Promotion of uniformity of legislation
Probation commission —
  access to records of societies for prevention of cruelty to children, § 30
  annual report to legislature, § 30
  employees, § 31
  meetings, § 30
Probation commission — *Continued*
  membership, § 30
  organization, powers and duties, § 30
Promotion of uniformity of legislation —
  annual expense allowance of commissioners, § 42
  annual report of commissioners, § 43
  commission continued in office, § 40
  duties of commissioners, § 40
  employees of commissioners, § 42
  expenses of commissioners, § 41
  subjects considered, § 40
  term of office of commissioners, § 41
Repealed laws, § 70
Short title, § 1
Time of taking effect of act, § 70
Uniform legislation, see Promotion of uniformity of legislation
Water power on Black river, commissioners' powers, duties and compensation, § 50

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